



State of Ohio Environmental Protection Agency
Northeast District Office

EPA Region 5 Records Ctr.



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Bob Taft, Governor
Christopher Jones, Director

January 14, 2003

RE: STATE ARAR'S, CHEMICAL
RECOVERY SYSTEMS, INC.,
ELYRIA, OHIO

Ms. Gwendolyn Massenburg
Remedial Project Manager
U.S. EPA - Region 5
Remedial Response Section # 4
77 West Jackson Boulevard
Mail Code SR-6J
Chicago, IL 60604

Dear Ms. Massenburg:

Below is a list of potential Ohio Applicable or Relevant and Appropriate Requirements (ARAR's) for the Chemical Recovery Systems (CRS) Superfund site in Elyria, Ohio. The citations are from both the Ohio Administrative Code (OAC) and Ohio Revised Code (ORC). Also, enclosed are copies of the referenced regulations for your information.

1. **OAC 3745-1-04** (Applicable)

Pertains to discharges to surface waters as a result of remediation, and any on-site surface waters affected by site conditions.

2. **OAC 3745-15-07 (A)** (Applicable)

Prohibition of air pollution.

3. **OAC 3745-17-08 (A1, A2, B, D)** (Applicable)

Emission restrictions for fugitive dust.

4. **OAC 3745-27-13 (C)** (Relevant and Appropriate)

Disturbances where hazardous or solid waste facility was operated.

5. **OAC 3745-52-11** (Applicable)

Evaluation of wastes.

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6. **OAC 3745-9-10 (A, B, C)** (Applicable)

Pertains to all ground water wells on the site that either will be installed, and to any wells scheduled for abandonment.

7. **ORC 3734.02 (H)** (Relevant and Appropriate)

State rules governing grading, excavating, etc., at sites containing hazardous or solid wastes (remedy construction activities).

8. **ORC 3734.02 (I)** (Relevant and Appropriate)

Pertains to any site at which hazardous waste will be managed, such that air emissions may occur.

9. **OAC 3745-81-11 (A, B, C); and OAC 3745-81-12 (A, B, C)** (Relevant and Appropriate)

Maximum Contaminant Levels (MCLs) for organic, and inorganic contaminants of concern in ground water.

10. **ORC 3767.13 (A)** (Relevant and Appropriate)

Prohibition of nuisances.

11. **OAC 3745-300-08** (Relevant and Appropriate)

Generic Numerical Standards for direct contact in soil.

Please contact me, if there are any questions.

Sincerely,



Lawrence Antonelli
Site Coordinator
Division of Emergency and Remedial Response

LA/kss

enclosures

(KKK) "Water quality standards" means the rules set forth in Chapter 3745-1 of the Administrative Code establishing stream use designations and water quality criteria protective of such uses for the surface waters of the state.

(LLL) "Wetlands" mean areas of land where the water table is at, near or above the land surface long enough each year to result in the formation of characteristically wet (hydric) soil types, and support the growth of water-dependent (hydrophytic) vegetation. Wetlands include, but are not limited to, marshes, swamps, bogs, and other such low-lying areas.

(Effective February 14, 1978; April 4, 1985; August 19, 1985; May 1, 1990)

3745-1-03 Analytical methods and availability of documents.

(A) Analytical methods.

(1) All methods of analysis used in applying any of the chemical-specific criteria in Chapter 3745-1 of the Administrative Code shall be in accord with those prescribed in 40 CFR part 136, as amended, "Test Procedures for the Analysis of Pollutants" and "Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices," as cited in paragraph (B) of this rule.

(2) All methods of sample collection and preservation used in applying any of the chemical-specific criteria in Chapter 3745-1 of the Administrative Code shall be in accord with "Test Procedures for the Analysis of Pollutants to the National Interim Primary Drinking Water Regulations (NIPDWR) and to the National Pollutant Discharge Elimination System (NPDES), 40 CFR part 136," and "Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices," as cited in paragraph (B) of this rule.

(3) Mixing zones for thermal discharges will be determined in accordance with "Guidelines for the Submittal of Demonstrations Pursuant to Sections 316(a) and 316(b) of the Clean Water Act and Chapter 3745-1 of the Administrative Code," as cited in paragraph (B) of this rule.

(4) Methods for conducting whole-effluent toxicity tests shall be in accordance with those prescribed in "Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices" as cited in paragraph (B) of this rule.

(5) Methods, data collection and data analysis requirements for applying the biological criteria in rule 3745-1-07 of the Administrative Code shall be in accordance with "Biological Criteria

for the Protection of Aquatic Life: Volume II, Users Manual for Biological Field Assessment of Ohio Surface Waters," and "Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices" as cited in paragraph (B) of this rule.

(B) Availability of documents. The following documents, cited in Chapter 3745-1 of the Administrative Code, are available for viewing at the library of the "Ohio Environmental Protection Agency, 1800 Watermark Drive, Columbus, Ohio 43215."

(1) 40 CFR part 136, "Test Procedures for the Analysis of Pollutants."

(2) "Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices," October 1, 1988, or any subsequent revisions.

(3) "Test Procedures for the Analysis of Pollutants to the National Interim Primary Drinking Water Regulations (NIPDWR) and the National Pollutant Discharge Elimination System (NPDES), 40 CFR part 136," state of Ohio department of health, December 3, 1979, revised February-March, 1980.

(4) "Guidelines for the Submittal of Demonstrations Pursuant to Sections 316(a) and 316(b) of the Clean Water Act and Chapter 3745-1 of the Administrative Code," Ohio environmental protection agency, division of industrial wastewater, September 30, 1978.

(5) "Standard Methods for the Examination of Water and Wastewater," sixteenth edition, "American Public Health Association," "American Water Works Association" and the "Water Pollution Control Federation," 1985, or any subsequent revisions.

(6) "Biological Criteria for the Protection of Aquatic Life: Volume II, Users Manual for Biological Field Assessment of Ohio Surface Waters." October 30, 1987, updated January 1, 1988, amended September 30, 1989.

(Effective February 14, 1978; April 4, 1985; May 1, 1990)

3745-1-04 Criteria applicable to all waters.

The following general water quality criteria shall apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the Director, these waters shall be:

(A) Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or

otherwise objectionable sludge deposits, or that will adversely affect aquatic life;

(B) Free from floating debris, oil, scum and other floating materials entering the waters as a result of human activity in amounts sufficient to be unsightly or cause degradation;

(C) Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance;

(D) Free from substances entering the waters as a result of human activity in concentrations that are toxic or harmful to human, animal or aquatic life and/or are rapidly lethal in the mixing zone;

(E) Free from nutrients entering the waters as a result of human activity in concentrations that create nuisance growths of aquatic weeds and algae.

(Effective February 14, 1978; April 4, 1985)

3745-1-05 Antidegradation.

(A) Definitions.

(1) "Available pollutant assimilative capacity" means the water body pollutant assimilative capacity for a substance, as determined in paragraph (A)(25)(a) of this rule, minus the background pollutant load, or the quantity for a substance as calculated in paragraph (A)(25)(b) of this rule.

(2) "Background pollutant load" means the sum of: the upstream pollutant load of a substance; all tributary loads in the segment; and the pollutant loads from discharges in the segment that discharge the pollutant but are not receiving an allocation or permit limit for that pollutant. All portions of the background pollutant load shall be based upon appropriate methods identified in the total maximum daily load procedures, and shall be determined for all substances that impact the segment receiving the allocation.

(3) "Best available demonstrated control technology" means a wastewater treatment capable of meeting the effluent limitations in paragraph (A)(3)(a) or (A)(3)(b) of this rule, or a treatment designed as in accordance with the provisions of paragraphs (A)(3)(c) to (A)(3)(f) of this rule.

(a) For the discharge of sanitary wastewater from facilities using conventional treatment technologies, the effluent limitations in table 5-1 of this rule.

(b) For the discharge of sanitary wastewater from alternative treatment technologies such as lagoon systems, land application and controlled discharge systems, constructed wetland systems or combined sewer overflow control systems effluent limitations shall be developed on a case-by-case basis.

(c) For industrial direct discharges subject to federal effluent guidelines, the facility shall be designed to meet the most stringent of the new source performance standards, best conventional pollutant control technology, best available technology economically achievable and best practicable control technology currently available for the appropriate categorical guidelines of 40 C.F.R.

(d) For categorical industrial indirect dischargers, [sic] the facility shall be designed to meet categorical pretreatment standards for existing sources or categorical pretreatment standards for new sources as contained in Chapter 3745-3 of the Administrative Code.

(e) For non-categorical industrial direct or indirect discharges, effluent limitations will be developed based upon best engineering/professional judgment.

(f) For wastewater discharges resulting from clean-up of response action sites contaminated with volatile organic compounds, the facility shall include air-stripping, carbon columns, both, or equivalent treatment capable of achieving final thirty-day average effluent limits of five micrograms per liter or less for each individually regulated volatile organic compound.

(4) "Declining fish species" mean[s] those native species that have declined in distribution across Ohio based on collection records since 1978 compared to historical distributions of fish species documented in "Fishes of Ohio" (Trautman, 1981). No later than ninety days after the effective date of this rule, the director, in consultation with the director of the department of natural resources, shall establish and make available through public notice a registry of declining fish species. In the event that improved water quality results in the decline of any pollutant tolerant native fish species the director may elect not to include such species on the registry if the ecological risks appear minimal. The registry shall be revised periodically if public comments or other circumstances justify.

(5) "Existing discharge" means a direct discharge of pollutants to waters of the state in existence at the time of the applicant's request to transfer pollutant loading.

or related facility have occurred, the director may require the owner or operator of said source, equipment or related facility to prepare, submit and implement a preventive maintenance and malfunction abatement plan which is acceptable to the director. Such plan shall be designed to prevent, detect and correct malfunctions or equipment failures which could result in emissions exceeding any applicable law.

(1) Each preventive maintenance and malfunction abatement plan shall be in writing and specify the following:

(a) A comprehensive preventive maintenance program, including a description of the items or conditions that will be inspected, the frequency of these inspections or repairs, and an identification of the types and quantities of the replacement parts which will be maintained in inventory for quick replacement;

(b) An identification of the source and the operating outlet variables of the air pollution control equipment that will be monitored in order to detect a malfunction or failure, the normal operating range of these variables, and a description of the monitoring or surveillance procedures and of the method of informing operating personnel of any malfunction, including alarm systems, lights and/or other indicators; and

(c) A description of the corrective procedures that will be taken in the event of a malfunction or failure in order to achieve compliance with any applicable law as expeditiously as practicable.

(2) Any acceptable preventive maintenance and malfunction abatement plan shall be specified in the terms and conditions of any permit or variance issued for a source covered by such plan.

(3) Operation and maintenance records shall be maintained by the owner or operator of the source to demonstrate that any preventive maintenance and malfunction abatement plan is fully implemented. All such records shall be maintained for a minimum of two years and shall be subject to inspection by the director or his representative upon request.

(Effective February 15, 1972; January 25, 1980)

[Any reports and/or notifications required under OAC Rule 3745-15-06 (Malfunction of equipment; scheduled maintenance; reporting) should be submitted to the appropriate Ohio EPA District Office or Local Air Pollution Control Agency as shown in the map at the front of the

book. This map shows the jurisdictional boundaries of all such field offices. The shaded areas represent local agencies which have jurisdiction within Ohio EPA districts. For any verbal notifications, which must be made outside of normal office hours, the Ohio EPA Emergency Response Section may be contacted by telephone (1-800-282-9378).]

3745-15-07 Air pollution nuisances prohibited.

(A) Except as provided in paragraph (B) of this Rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

(B) Those sources of odors not subject to regulation under Chapters 3745-17, 3745-18, 3745-21 or 3745-31 of the Administrative Code shall not be subject to this rule.

(Effective February 15, 1972; May 17, 1982)

3745-15-08 Circumvention.

No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate any regulations of the director.

(Effective February 15, 1972; January 25, 1980)

3745-15-09 Severability.

If any provision of any regulation of the director or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of such regulations which can be given without the invalid provisions or application, and to this end the provisions of all regulations of the director and the various applications thereof are declared to be severable.

(Effective February 15, 1972; January 25, 1980)

tions of the permit, variance or order issued by the director for said source.

(D) Any revision approved by the director in accordance with paragraphs (A)(3)(a)(i), (A)(3)(a)(ii), (A)(3)(b)(i), (A)(3)(b)(ii), and (C)(4) of this rule shall not revise the federally enforceable requirements of the state implementation plan until approved by the U.S. environmental protection agency.

(Effective February 15, 1972; June 18, 1980; October 1, 1983; June 14, 1991)

3745-17-08 Restriction of emission of fugitive dust.

(A) Applicability:

(1) Except as otherwise indicated in paragraph (A)(3) of this rule, the requirements of paragraph (B) of this rule shall apply to any fugitive dust source which is located within the areas identified in "Appendix A" of this rule. Except as additional time for achieving compliance is provided in paragraph (B) of rule 3745-17-04 of the Administrative Code, any such source shall comply with the requirements of paragraph (B) of this rule upon the effective date of this rule.

(2) Notwithstanding the exemptions in paragraph (A)(3) of this rule, the requirements of paragraph (B) of this rule shall apply to any fugitive dust source regardless of location if, in the director's judgment, probable cause exists to believe that such source is causing or contributing to a violation of rule 3745-15-07 or 3745-17-02 of the Administrative Code. In such cases, the director may require the owner or operator of the fugitive dust source to apply for and obtain a permit to operate for the source in accordance with rule 3745-35-02 of the Administrative Code, and/or require the owner or operator to submit and implement a control program which will bring the fugitive dust source into compliance with the requirements of paragraph (B) of this rule as expeditiously as practicable.

(3) The requirements of paragraph (B) of this rule shall not apply to:

(a) Any fugitive dust source which is located at a grain elevator having a permanent storage capacity of less than 2.5 million bushels;

(b) Fugitive dust generated by the following sources at the "Armco Steel Company, L.P., Inc., Middletown Works" (OEPA premise number 1409010006), located on Crawford street, Middletown, Ohio:

(i) Number 3 blast furnace (OEPA source number P025);

(ii) Number 15 basic oxygen furnace (OEPA source number P026); and

(iii) Number 16 basic oxygen furnace (OEPA source number P027);

(c) Fugitive dust generated from publicly owned roadways and parking lots, provided the fugitive dust is not directly caused by the deposition of materials due to industrial, commercial, or construction activities; and

(d) Fugitive dust generated from the tilling and wind erosion of farm land.

(B) No person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne. Such reasonably available control measures shall include, but not be limited to, one or more of the following which are appropriate to minimize or eliminate visible particulate emissions of fugitive dust:

(1) The use of water or other suitable dust suppression chemicals for the control of fugitive dust from the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(2) The periodic application of asphalt, oil, water, or other suitable dust suppression chemicals on dirt or gravel roads and parking lots; and other surfaces which can cause emissions of fugitive dust;

(3) The installation and use of hoods, fans, and other equipment to adequately enclose, contain, capture, vent and control the fugitive dust. Such equipment shall meet the following requirements:

(a) The collection efficiency is sufficient to minimize or eliminate visible particulate emissions of fugitive dust at the point(s) of capture to the extent possible with good engineering design; and

(b) The control equipment achieves an outlet emission rate of not greater than .030 grain of particulate emissions per dry standard cubic foot of exhaust gases or there are no visible particulate emissions from the exhaust stack(s), whichever is less stringent;

(4) For ship loading operations at grain terminals:

(a) Except during topping-off periods or dur-

ing the loading of tween-deckers or tankers, the covering of the hatches and loading spouts with tarpaulin covers, to the extent practicable, and evacuation of the hatches to control equipment which is designed to achieve an outlet emission rate of .030 grain of particulate emissions per dry standard cubic foot of exhaust gases; or

(b) The installation and use of control measures such as deadbox or bullet-type loading spouts which are equivalent to or better than the overall control efficiency of the measures described in paragraph (B)(4)(a) of this rule;

(5) The use of adequate containment methods during sandblasting or other similar operation;

(6) The periodic application of water or other suitable dust suppression chemicals, the installation of storage silos, bins or other enclosed structures, or the use of canvas or other suitable coverings, for all materials stockpiles and stockpiling operations, except temporary stockpiles and stockpiling operations for grain and grain products;

(7) The covering, at all times, of open bodied vehicles when transporting materials likely to become airborne;

(8) The paving of roadways and the maintaining of roadways in a clean condition; and

(9) The prompt removal, in such a manner as to minimize or prevent resuspension, of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means.

(C) For purposes of determining compliance with the requirements of paragraph (B) of this rule, the director shall consider a control measure to be adequate if it complies with the following:

(1) The visible particulate emission limitation(s) contained in rule 3745-17-07 of the Administrative Code; and

(2) If applicable, the control requirements contained in paragraph (B)(3) of this rule.

(D) Any owner or operator of a facility which contains a fugitive dust source and which is located within any area identified in "Appendix A" of this rule shall submit a certification and/or application for a permit to operate in accordance with paragraphs (A) and (B) of rule 3745-17-04 of the Administrative Code. This paragraph shall not exempt the owner or operator of a fugitive dust source which is not located within an area identified in "Appendix A" of this rule from the

requirements of rule 3745-35-02 of the Administrative Code.

Appendix A

Areas of the state of Ohio where paragraph (C) of Rule 3745-17-08 of the Administrative Code is applicable

County	Description of area(s)
Allen	City of Lima
Ashtabula	City of Ashtabula; and Ashtabula and Plymouth Townships
Belmont	entire county
Butler	Cities of Hamilton, Middletown and New Miami; and Fairfield, Lemon, Madison and St. Clair Townships
Carroll	entire county
Clark	Cities of New Carlisle and Springfield
Clinton	Cities of Blanchester and Wilmington
Columbiana	entire county
Coshocton	Jackson Township
Cuyahoga	entire county
Defiance	Richland Township
Franklin	City of Columbus
Gallia	City of Gallipolis
Geauga	Cities of Chardon and Middlefield; and Bainbridge Township
Greene	City of Fairborn
Hamilton	Cities of Cincinnati, Norwood, Golf Manor, Amberley, Arlington Heights, Reading, Lockland, Evendale, Sharonville, Springdale, Glendale, Woodlawn, Lincoln Heights, Wyoming, Elmwood Place and St. Bernard; and Miami, Whitewater, Delhi and Springfield Townships
Henry	City of Napoleon
Jackson	City of Jackson
Jefferson	entire county
Lake	Cities of Painesville, Willowick, Willoughby Hills, Wickliffe, East Lake, Madison and Mentor; and Madison, Leroy and Painesville Townships
Lawrence	Cities of Ironton and Coal Grove
Lorain	Cities of Sheffield, Lorain, Avon and Avon Lake; and Sheffield Townships
Lucas	Cities of Maumee, Toledo and Oregon; and Washington and Waterville Townships
Mahoning	City of Youngstown
Medina	entire county

Meigs	City of Racine
Miami	City of Piqua; and Concord Township
Monroe	entire county
Montgomery	Cities of Dayton, Kettering, Miamisburg, Moraine, Oakwood, Riverside, Trotwood and West Carrollton; and Butler, Jefferson, Harrison, Mad River, Madison, Miami, Washington and Wayne Townships
Morgan	Center Township
Muskingum	Cities of Philo and Zanesville
Noble	City of Caldwell
Portage	Cities of Kent and Ravenna
Preble	City of Eaton
Richland	City of Mansfield; and Madison, Mifflin and Franklin Townships
Sandusky	Cities of Gibsonburg and Woodville; and Jackson, Madison, Washington and Woodville Townships
Seneca	City of Tiffin
Shelby	City of Sidney
Stark	Cities of Canton, East Canton, Louisville and Meyers Lake; and Canton, Nimishillen, Osnaburg, Perry and Plain Townships
Summit	Cities of Akron, Barberton, Cuyahoga Falls and Norton; and Coventry and Franklin Townships
Trumbull	Cities of Warren and Niles; and Warren Township
Washington	entire county
Wood	City of Perrysburg
Wyandot	City of Carey; and Crawford Township

(Effective August 7, 1972; June 18, 1980; March 25, 1981; August 1, 1982; October 1, 1983; June 14, 1991)

3745-17-09 Restrictions on particulate emissions and odors from incinerators.

(A) General provisions.

(1) This rule shall apply to any incinerator except those regulated under Chapter 3745-75 of the Administrative Code.

(2) For the purposes of this rule, the total of the capacities of all incinerators which are united either physically or operationally shall be considered as the incineration capacity.

(B) Emission limitation.

No person shall cause, suffer, or allow to be emitted into the ambient air from any incinera-

tors, particulate emissions in the exhaust gases in excess of: 0.10 pound per one hundred pounds of liquid, semi-solid or solid refuse and salvageable material charged, for incinerators having incineration capacities equal to or greater than one hundred pounds per hour; or 0.20 pound per one hundred pounds of liquid, semi-solid or solid refuse and salvageable material charged for incinerators having incineration capacities less than one hundred pounds per hour.

(C) Design-operation requirements.

Incinerators, including all associated equipment and grounds, shall be designed, operated and maintained so as to prevent the emission of objectionable odors.

(Effective February 15, 1972; June 18, 1980; October 1, 1983; July 9, 1991)

3745-17-10 Restrictions on particulate emissions from fuel burning equipment.

(A) This rule applies to installations in which fuel, including any product or by-product of a manufacturing process, is burned for the primary purpose of producing heat or power by indirect heat transfer.

(B) For purposes of this rule the actual heat input shall be the aggregate heat content of all fuels whose products of combustion emanate from a single fuel burning unit. The maximum capacity shall be the equipment manufacturer's or designer's guaranteed maximum heat input, whichever is greater. Unless otherwise specified in paragraphs (B)(1) to (B)(4) of this rule, the total heat input of all fuel burning units on a plant or premises which are united either physically or operationally shall be the total of the maximum capacities for all such units. The total heat input shall be used for determining the maximum allowable amount of particulate emissions per million Btu of actual heat input from any single fuel burning unit.

(1) Any new or existing fuel burning equipment which is fired only with gaseous fuels and/or number two fuel oil and which is physically or operationally united with other fuel burning equipment on a plant or premises shall not be included by the director for purposes of determining the total heat input and maximum allowable particulate emissions per million Btu of actual heat input for such other fuel burning equipment. The maximum allowable amount of particulate emissions for any new or existing fuel burning equipment which is fired only with gas-

cation reports, and all revisions shall be submitted by the person identified in paragraph (A) of this rule to the appropriate Ohio EPA district office and to the approved health department, and for a sanitary landfill facility subject to paragraph (A)(1) or (A)(2) of this rule, into the operating record in accordance with rule 3745-27-09 of the Administrative Code.

(Effective June 12, 1989; June 1, 1994)

3745-27-13 Authorization to engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated.

(A) No person shall, without prior authorization from the director, engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated.

(B)(1) This rule does not apply to filling, grading, excavating, building, drilling, or mining for which:

(a) The owner or operator of a solid waste facility has obtained a permit to install in accordance with the requirements of Chapter 3745-31 of the Administrative Code, and an effective solid waste disposal license in accordance with the requirements of Chapter 3745-37 of the Administrative Code, and that is in accordance with authorized development, operating, maintenance or monitoring practices at the facility;

(b) The owner or operator of a hazardous waste treatment, storage, or disposal facility has obtained a permit, plan approval, or other authorization in accordance with the requirements of Chapter 3734. of the Revised Code and that is in accordance with authorized development, operating, maintenance, or monitoring practices at the facility;

(c) The owner or operator of a solid waste facility or hazardous waste treatment, storage or disposal facility is exempted or otherwise excluded from requirements to obtain permits or licenses under Chapter 3734. of the Revised Code.

(2) This rule does not apply to a person to whom the director has issued a final order under which this person will fill, grade, excavate, drill, build, or mine at a site as part of a corrective or remedial investigation or action, ground-water investigation, or other investigation or action to abate air or water pollution or soil contamination,

or to protect public health and safety under Chapter 6111. or 3734. of the Revised Code.

(3) A public utility as defined in section 4905.02 of the Revised Code that has main or distribution lines above or below the surface, located on an easement or right-of-way across land where a solid waste facility was operated, may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for the purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structures, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair or replacement or maintenance work, the public utility shall notify the director or his authorized representative of those activities and shall provide such information regarding those activities as the director or his representative may request. Upon completion of the emergency repair or replacement or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(4) This rule does not apply to routine maintenance of final cover.

(5) This rule does not apply to routine agricultural, horticultural, recreational, or maintenance activities done by occupants of single-family homes on their own premises.

(C) Any person wishing to obtain an authorization under this rule shall provide such information to the director as necessary for him to make a determination that such activity will not create a nuisance and is unlikely to adversely affect the public safety or health or the environment, including as appropriate, the following information in the following order:

(1) The location specified on a 7 1/2 minute USGS topographical map and on a topographic

map with a maximum scale of one inch equals two hundred feet, legal description, type of facility, demonstration of current property ownership, and demonstration of current facility ownership.

(2) The specific activities and their intended purposes for which authorization is requested.

(3) Discussion of all previous and existing permits, licenses, approvals, and orders pertaining to past and ongoing waste treatment, storage, or disposal activities issued under local, state, and federal environmental regulations for lands upon which authorization under this rule is requested.

(4) Letters of acknowledgment from the owners of all parcels of land to which the authorization pertains.

(5) Copies of letters of notice to:

(a) The board of health of the health district wherein the facility is located;

(b) The local zoning authority having jurisdiction over the geographical area where the facility is located, if any;

(c) Letters of notice shall state that authorization under this rule is being requested and shall include a legal description of the affected site.

(6) A discussion of the facility's present or known prior use for hazardous waste or solid waste treatment, storage or disposal, including a summary and discussion of all available documentation pertaining to the dates of operation, types and quantities of waste handled at the facility, and ownership.

(7) For closed facilities or closed waste treatment, storage, or disposal areas at an operating facility, a detailed discussion of the closure activities, if any, performed at the facility and an evaluation of the present condition of the closed facility.

(8) A detailed description of the manner by which the proposed filling, grading, excavating, building, drilling, or mining will be accomplished.

(9) A detailed plan describing the manner by which the proposed filling, grading, excavating, building, drilling, or mining will be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to control of air emissions, control of leachate, surface water run-on and run-off, and protection of ground water.

(10) A detailed description of the procedures to be followed should solid or hazardous waste or potentially contaminated soils be removed from the closed facility. The description shall address procedures for representative sampling of

waste and potentially contaminated soil, sample analysis, and the selection of the appropriate disposal method, and shall provide for the submittal of a copy of a letter of acceptance from a disposal facility to the director prior to any removal of waste or contaminated soil from the property. Waste and contaminated soils which have been removed from the closed facility must be collected and disposed of in accordance with Chapter 3734. of the Revised Code.

(11) A detailed description of the procedures to be followed in reestablishing or instituting a formal closure of the facility upon completion of the proposed filling, grading, excavating, building, drilling, or mining. The reestablishing or instituting of the closure of the facility shall be in accordance with the applicable provisions of Chapter 3734. of the Revised Code and the rules promulgated thereunder.

(12) Other such information as the director deems necessary to determine that these activities will be in compliance with all applicable laws and regulations administered by the director.

(D)(1) Requests for authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated shall be signed as follows:

(a) In the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative if such representative is responsible for the overall operation of the facility;

(b) In the case of a partnership, by a general partner;

(c) In the case of a sole proprietorship, by the proprietor; and

(d) In the case of a municipal, state, federal, or other governmental facility, by the principal executive officer, the ranking elected official, or other duly authorized employee.

(2) The signature shall constitute personal affirmation that all statements or assertions of fact made in the application are true and complete and comply fully with applicable state requirements, and shall subject the signatory to liability under applicable state laws forbidding false or misleading statements, and shall be notarized.

(E) An incomplete request shall not be considered. Within sixty days of the date of receipt of an incomplete request, the director or his authorized representative shall notify the applicant of the nature of any deficiency and of the director's refusal to consider the request until the deficiency is rectified and the application is deemed complete.

(F) The director shall not grant an authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated unless he determines that such authorization will not result in violation of applicable laws and regulations administered by the director, will not create a nuisance and is unlikely to adversely affect the public safety or health or the environment.

(G) The director may impose such special terms and conditions as part of the authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated as are appropriate or necessary to ensure compliance with all applicable laws and regulations administered by the director, and to ensure protection of public health and safety and the environment.

(H) An authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated shall terminate within eighteen months of its effective date if the person to whom authorization was granted has not begun the activities authorized thereby or has not entered into a binding contractual obligation to undertake and complete the activities authorized thereby within twenty-four months of the effective date of the authorization.

(I) The director may extend the date of expiration of any authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated by up to twelve months if the person to whom authorization was granted submits, at least sixty days prior to the original termination date, a request for an extension of the authorization containing information that, in the judgment of the director, justifies an extension of time. No appeal taken from denial of extension of an expiration date shall prevent termination of the authorization during the period between denial of an extension and final disposition of the appeal unless prohibited by any court or administrative body having jurisdiction over the matter.

(J) The director may revoke an authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated if he concludes at any time that any applicable laws have been or are likely to be violated or continued implementation of the approved plans

may cause a threat to human health or safety or the environment.

(K) Authorization to engage in filling, grading, excavating, drilling, building, or mining on land where a hazardous waste facility or a solid waste facility was operated shall be granted, extended, revoked, or denied in accordance with the provision of Chapters 119. and 3745. of the Revised Code and Chapter 3745-47 of the Administrative Code.

(Effective November 17, 1988; March 9, 1989; June 12, 1989)

3745-27-14 Post-closure care of sanitary landfill facilities.

(A) Following completion of final closure activities in accordance with rule 3745-27-11 of the Administrative Code or following closure activities in accordance with paragraph (C) of rule 3745-27-10 of the Administrative Code, as effective July 29, 1976, and completed on or after the date three years prior to March 1, 1990, the owner, operator, permittee or licensee shall conduct post-closure care activities at the sanitary landfill facility for a minimum of thirty years. The post-closure care period begins when the certification(s) required by paragraph (J) of rule 3745-27-11 of the Administrative Code have been submitted for all unit(s), of a sanitary landfill facility. Post-closure care activities for a sanitary landfill facility shall include, but are not limited to:

(1) Continuing operation and maintenance of the leachate management system, the surface water management system, any explosive gas extraction and/or control system, any explosive gas monitoring system, and the ground water monitoring system; and

(2) Maintaining the integrity and effectiveness of the cap system, including making repairs to the cap system as necessary to correct the effects of settling, dead vegetation, subsidence, erosion, leachate outbreaks, or other events, and preventing run-on and runoff from eroding or otherwise damaging the cap system; and

(3) Quarterly inspection of the sanitary landfill facility during each year of the post-closure care period and submittal of a written summary to the appropriate Ohio EPA district office not later than fifteen days after the inspection date detailing the results of the inspection and a schedule of any actions to be taken to maintain compliance with paragraphs (A)(1) and (A)(2) of this rule; and

(4) Fulfilling all monitoring and reporting re-

3745-52 GENERATOR STANDARDS

- 3745-52-10 Applicability.
- 3745-52-11 Hazardous waste determination.
- 3745-52-12 Generator identification numbers.
- 3745-52-20 Manifest—general requirements.
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- 3745-52-40 Recordkeeping.
- 3745-52-41 Annual report.
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- 3745-52-55 Exception reports.
- 3745-52-56 Annual reports.
- 3745-52-57 Record keeping.
- 3745-52-60 Imports of hazardous waste from a foreign country.
- 3745-52-70 Farmers.

3745-52-10 Applicability.

(A) This chapter establishes standards for generators of hazardous waste.

(B) A generator who treats, stores, or disposes of hazardous wastes on-site must only comply with the following standards with respect to that waste:

(1) Rule 3745-52-70 of the Administrative Code, if applicable, for farmers;

(2) Rule 3745-52-11 of the Administrative Code for determining whether or not he has a hazardous waste;

(3) Paragraphs (C) and (D) of rule 345-52-40 of the Administrative Code for recordkeeping;

(4) Rule 3745-52-12 of the Administrative Code for obtaining a U.S. EPA identification number;

(5) Rule 3745-52-43 of the Administrative Code for additional reporting; and

(6) Rule 3745-52-34 of the Administrative Code for accumulation of his waste.

(C) Any person who imports hazardous wastes from a foreign country into the state of Ohio shall comply with the standards established in this chapter.

(D) A farmer who generates waste pesticides which are hazardous wastes and who complies with all the requirements of rule 3745-52-70 of the Administrative Code is not required to comply with other standards in this chapter or Chapters 3745-50, 3745-54 to 3745-57, 3745-59, and 3745-65 to 3745-69 of the Administrative Code with respect to such pesticides.

(E) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with standards set forth in this chapter.

[Comment 1: The provisions of rule 3745-52-34 of the Administrative Code are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of rule 3745-52-34 of the Administrative Code only apply to owners or operators who are shipping hazardous waste which they generated at that facility.]

[Comment 2: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in rules 3745-50-40 to 3745-50-62 of the Administrative Code and Chapters 3745-54 to 3745-59 and 3745-65 to 3745-69 of the Administrative Code.]

(Effective July 27, 1980; April 15, 1981; December 2, 1981; January 7, 1983; December 30, 1989; April 1, 1990; February 11, 1992)

3745-52-11 Hazardous waste determination.

Any person who generates a waste in the state of Ohio, as defined in rule 3745-51-02 of the Administrative Code, or any person who produces a waste outside of the state of Ohio that is managed in the state of Ohio, must determine if that waste is a hazardous waste using the following method:

(A) He should first determine if the waste is excluded from regulation under rule 3745-51-04 of the Administrative Code.

(B) He must then determine if the waste is

listed as a hazardous waste in rules 3745-51-30 to 3745-51-33 of the Administrative Code.

[Note: Even if the waste is listed, the generator still has an opportunity under rule 3745-50-221 of the Administrative Code to demonstrate to the director that the waste from his particular facility or operation is not a hazardous waste.]

(C) For purposes of compliance with Chapter 3745-59 of the Administrative Code, or if the waste is not listed as a hazardous waste in rules 3745-51-30 to 3745-51-33 of the Administrative Code, the generator must then determine whether the waste is identified in rules 3745-51-20 to 3745-51-24 of the Administrative Code by either:

(1) Testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24 of the Administrative Code, or according to an equivalent method approved by the Region V Administrator of U.S. EPA pursuant to 40 CFR 260.21; or

(2) Applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

(D) In addition to the other requirements regarding evaluation, upon request of the director, a person generating a waste shall submit the results of the evaluation of the waste to the Ohio EPA.

(E) If the waste is determined to be hazardous, the generator shall refer to Chapters 3745-54 to 3745-57, 3745-59, and 3745-65 to 3745-69 of the Administrative Code for possible exclusions or restrictions pertaining to management of his specific waste.

(Effective April 1, 1990; February 11, 1992)

3745-52-12 Generator Identification numbers.

(A) A generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received a generator identification number from U.S. EPA or Ohio EPA.

(B) A generator who has not received a generator identification number shall obtain one by applying to Ohio EPA using U.S. EPA form 8700-12. This form may be obtained from Ohio EPA or from U.S. EPA. Upon receiving the request, Ohio EPA will assign a generator identification number to the generator.

(C) A generator must not offer his hazardous waste to transporters or to treatment, storage, or

disposal facilities that have not received an EPA identification number.

(Effective August 29, 1985; February 11, 1992)

3745-52-20 Manifest—general requirements.

(A) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall prepare a uniform hazardous waste manifest, U.S. EPA form 8700-22, and if necessary, U.S. EPA form 8700-22A (the continuation sheet) before transporting the hazardous wastes off-site.

(B) Completion of item I, U.S. EPA form 8700-22, and if necessary, item R, U.S. EPA form 8700-22A, and relating to the U.S. EPA waste number, is required in addition to the completion of items one through twenty and items twenty-one through thirty-five respectively, on these forms.

(C) The generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(D) The generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

(E) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator shall either designate another facility or instruct the transporter to return the waste.

(F) The requirements of this rule and rules 3745-52-22 and 3745-52-23 of the Administrative Code do not apply to hazardous waste produced by generators of greater than one hundred kilograms but less than one thousand kilograms in a calendar month where:

(1) The waste is reclaimed under a contractual agreement pursuant to which:

(a) The type of waste and frequency of shipments are specified in the agreement;

(b) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

(2) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

(Effective July 27, 1980; April 15, 1981; March

has been constructed in such a fashion, or is being maintained in such a fashion, or has deteriorated to such an extent, that contaminants may enter ground water, the Director may issue an order to have such work performed on the well, including filling the well as described in 3745-9-10 (B) and (C), as he deems necessary to insure that contaminants do not enter ground water.

(Effective February 15, 1975)

3745-9-10 Abandonment of test holes and wells.

(A) Upon completion of testing, a test hole shall be either completely filled with grout or such other material as will prevent contaminants from entering ground water, or converted into a well, construction of which shall comply with all applicable requirements of this Chapter 3745-9.

(B) If a well containing walls is not being used for obtaining ground water or for determining the quality, quantity, or level of ground water, such well shall either be completely filled with grout or such other material as will prevent contaminants from entering ground water, or maintained in strict compliance with all applicable requirements of Regulation 3745-9-09.

(C) All wells not governed by (B) above and

which are being used neither for obtaining ground water nor for determining the quality, quantity, or level of ground water shall be either completely filled with grout, or maintained in strict compliance with all applicable requirements of 3745-9-09.

(Effective February 15, 1975)

3745-9-11 Use of wells for disposal.

No person shall use any well for the purpose of injecting or reinjecting any substance into the ground without first obtaining the necessary permits from the Director in accordance with Chapter 6111 of the Ohio Revised Code and Chapters 3745-3, 3745-31, and 3745-33 of the Regulations of the Ohio Environmental Protection Agency, and from the Department of Natural Resources.

(Effective February 15, 1975)

3745-9-12 Penalties.

Whoever breaches any duty imposed by Chapter 3745-9 of the Regulations of the Ohio Environmental Protection Agency shall be subject to the penalties set forth in Ohio Revised Code Section 6111.99.

(Effective February 15, 1975)

cate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair or replacement, or maintenance, work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair or replacement, or maintenance, activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emer-

gency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) No owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes, other than those subject to division (A)(1)(c) of section 3734.021 [3734.02.1] of the Revised Code, that have not been treated to render them noninfectious. For the purposes of this division, certification by the owner or operator of the treatment facility where the wastes were treated on the shipping paper required by rules adopted under division (D)(2) of that section creates a rebuttable presumption that the wastes have been so treated.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the

methane (bromoform), rounded to two significant figures.

(III) "Treatment technique" means a method for treating water to achieve acceptable levels of the contaminants in lieu of establishing a maximum contaminant level.

(JJJ) "Treatment technique requirement" means a requirement of the state primary drinking water rules which specifies for a contaminant a specific treatment technique or techniques known to the director which leads to a reduction in the level of such contaminant sufficient to comply with the requirements of this chapter.

(KKK) "Trihalomethane" or "THM" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

(LLL) "Volatile organic chemicals" or "VOCs" are the chemicals identified in paragraph (C) of rule 3745-81-12 and paragraph (D) of rule 3745-81-24 of the Administrative Code.

(MMM) "Waterborne disease outbreak" means the significant occurrence of acute or chronic infectious illness, epidemiologically associated with the ingestion of water from a public water system.

(NNN) "Virus" means a virus which is infectious to humans by waterborne transmission.

(Effective December 27, 1978; August 24, 1981; May 22, 1989; December 31, 1990; September 13, 1993)

3745-81-02 Coverage.

This chapter shall apply to each public water system, unless the public water system meets all of the following conditions:

(A) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(B) Obtains all of its water from, but is not owned or operated by, a public water system to which this chapter applies;

(C) Does not sell water to any person; and

(D) Is not a carrier which conveys passengers in interstate commerce.

(Effective December 27, 1978)

3745-81-03 Siting requirements.

Before a person may enter into a financial

commitment for or initiate construction of a new public water system or increase the capacity of an existing public water system, he shall notify the director and, to the extent practicable, avoid locating part or all of the new or expanded facility at a site which:

(A) Is subject to a significant risk from earthquakes, floods, fires or other disasters which could cause a breakdown of the public water system or a portion thereof; or

(B) Except for intake structures, is within the floodplain of a one-hundred-year flood or is lower than any recorded high tide where appropriate records exist.

(Effective December 27, 1978)

3745-81-11 Maximum contaminant levels and best available technologies for inorganic chemicals.

(A) The following maximum contaminant levels (MCLs) for inorganic contaminants apply to all public water systems.

Contaminant	MCL milligrams per liter
Nitrate (as nitrogen)	10
Nitrite (as nitrogen)	1
Total nitrate and nitrite (as nitrogen)	10

(B) The following maximum contaminant levels for inorganic contaminants apply to all community and non-transient non-community public water systems.

Contaminant	MCL milligrams per liter
Antimony	0.006
Arsenic	0.05
Asbestos	7*
Barium	2
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide (as free cyanide)	0.2
Fluoride**	4.0
Mercury	0.002
Nickel	0.1
Selenium	0.05
Thallium	0.002

* In units of millions of fibers per liter, where

only fibers longer than ten micrometers are counted.

** Rule 3745-82-02 of the Administrative Code establishes a secondary maximum contaminant level for fluoride.

(C) The director may determine that a public water system shall apply best available technology in order to reduce the level of a contaminant to below its maximum contaminant level. The director hereby identifies the following technologies, treatment techniques, or other means as the best available technologies (BATs) for removal of the following inorganic contaminants from water.

Contaminant	BATs
Antimony	2, 7
Asbestos	2, 3, 8
Barium	5, 6, 7, 9
Beryllium	1, 2, 5, 6, 7
Cadmium	2, 5, 6, 7
Chromium	2, 5, 6 ^a , 7
Cyanide	5, 7, 10
Mercury	2 ^b , 4, 6 ^b , 7 ^b
Nickel	5, 6, 7
Nitrate	5, 7, 9
Nitrite	5, 7
Selenium	1, 2 ^c , 6, 7, 9
Thallium	1, 5

a EAT for chromium(III) only

b EAT only for mercury concentrations of ten micrograms per liter or less

c EAT for selenium(IV) only

Key to BATs in table:

1 = Activated alumina

2 = Coagulation/filtration (not a BAT for variances for systems with less than five hundred service connections unless treatment is already in place)

3 = Direct filtration

4 = Granular activated carbon

5 = Ion exchange

6 = Lime softening

7 = Reverse osmosis (not a BAT for variances for systems with less than five hundred service connections unless treatment is already in place)

8 = Corrosion control

9 = Electrodialysis

10 = Chlorine

(Effective December 27, 1978; March 1, 1988; September 13, 1993)

3745-81-12 Maximum contaminant levels and best available technologies for organic contaminants.

(A) Total trihalomethanes: the maximum contaminant level for total trihalomethanes is 0.10 milligram per liter and applies only to community water systems which serve a population of ten thousand or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. Total trihalomethanes means the sum of the concentrations of the four chemicals listed below. Compliance with the maximum contaminant level for total trihalomethanes is calculated pursuant to paragraph (A) of rule 3745-81-24 of the Administrative Code.

Trihalomethane	CAS Number
Bromodichloromethane	75-27-4
Dibromochloromethane	124-48-1
Tribromomethane (bromoform)	75-25-2
Trichloromethane (chloroform)	67-66-3

(B) The following maximum contaminant levels (MCLs) apply to community water systems and non-transient non-community water systems. The associated best available technologies (BATs), designated as GAC for granular activated carbon and PTA for packed-tower aeration, identify the best technology, treatment techniques, or other means available for achieving compliance with the stated maximum contaminant levels. The director may determine that a public water system shall apply best available technology in order to reduce the level of a contaminant to below its maximum contaminant level.

Contaminant	CAS Number	MCL milligrams per liter	BAT
Vinyl chloride	75-01-4	0.002	PTA
Benzene	71-43-2	0.005	GAC PTA
Carbon tetrachloride	56-23-5	0.005	GAC PTA
p-Dichloro-benzene	106-46-7	0.075	GAC PTA
1,2-Dichloro-ethane	107-06-2	0.005	GAC PTA
1,1-Dichloro-ethylene	75-35-4	0.007	GAC PTA
Trichloro-	79-01-6	0.005	GAC PTA

Contaminant	MCL			Contaminant	MCL		
	CAS Number	milligrams per liter	BAT		CAS Number	milligrams per liter	BAT
ethylene				Carbofuran	1563-66-2	0.04	GAC
1,1,1-Trichloroethane	71-55-6	0.2	GAC PTA	Chlordane	57-74-9	0.002	GAC
o-Dichlorobenzene	95-50-1	0.6	GAC PTA	2,4-D	94-75-7	0.07	GAC
cis-1,2-Dichloroethylene	156-59-2	0.07	GAC PTA	Dalapon	75-99-0	0.2	GAC
trans-1,2-Dichloroethylene	156-60-5	0.1	GAC PTA	Dibromochloropropane (DBCP)	96-12-8	0.0002	GAC PTA
1,2-Dichloropropane	78-87-5	0.005	GAC PTA	Di(2-ethylhexyl) adipate	103-23-1	0.4	GAC
Dichloromethane	75-09-2	0.005	PTA	Di(2-ethylhexyl) phthalate	117-81-7	0.006	GAC
Ethylbenzene	100-41-4	0.7	GAC PTA	Dinoseb	88-85-7	0.007	GAC
Monochlorobenzene	108-90-7	0.1	GAC PTA	Diquat	85-00-7	0.02	GAC
Styrene	100-42-5	0.1	GAC PTA	Endothall	145-73-3	0.1	GAC
Tetrachloroethylene	127-18-4	0.005	GAC PTA	Endrin	72-20-8	0.002	GAC
Toluene	108-88-3	1	GAC PTA	Ethylene dibromide (EDB)	106-93-4	0.00005	GAC PTA
1,2,4-Trichlorobenzene	120-82-1	0.07	GAC PTA	Glyphosate	1071-53-6	0.7	OX
1,1,2-Trichloroethane	79-00-5	0.005	GAC PTA	Heptachlor	76-44-8	0.0004	GAC
Xylenes (total)	1330-20-7	10	GAC PTA	Heptachlor epoxide	1024-57-3	0.0002	GAC

(C) The following maximum contaminant levels apply to community water systems and non-transient non-community water systems. The associated best available technologies (BATs), designated as GAC for granular activated carbon, PTA for packed-tower aeration, and OX for oxidation with chlorine or ozone, identify the best technology, treatment technique, or other means available for achieving compliance with the stated maximum contaminant levels. The director may determine that a public water system shall apply best available technology in order to reduce the level of a contaminant to below its maximum contaminant level.

Contaminant	MCL		
	CAS Number	milligrams per liter	BAT
Alachlor	15972-60-8	0.002	GAC
Atrazine	1912-24-9	0.003	GAC
Benzo[a]pyrene	50-32-8	0.0002	GAC

3745-81-13 Maximum contaminant levels for turbidity.

For any public water system using, or in the process of installing, filtration as part of the treatment of a surface water source, the requirements in this rule apply until June 29, 1993. After June 29, 1993, the turbidity requirements of rule 3745-

(Effective December 27, 1978; August 24, 1981; May 22, 1989; September 13, 1993)

the prosecuting attorney, village solicitor, city director of law, or other similar chief legal officer shall proceed promptly under sections 3767.03 to 3767.11 of the Revised Code to enforce those sections. The finding of the defendant guilty in the criminal action, unless reversed or set aside, shall be conclusive against the defendant as to the existence of the nuisance in the civil action under those sections.

(B) Except for proceeds described in divisions (C) to (F) of section 3767.06 of the Revised Code, all moneys collected under sections 3767.03 to 3767.11 of the Revised Code shall be paid to the county treasurer.

HISTORY: GC § 6212-7; 107 v 514, § 7; Bureau of Code Revision, 10-1-53; 144 v H 343. Eff 6-1-92.

Cross-References to Related Sections

Penalty, RC § 3767.99.

Court shall punish offender for violation of injunction or order, RC § 3767.07.

Nuisance defined re felony drug violation, RC § 3719.10.

Order of abatement; removal and sale of personal property and contents; attorney general nuisance fund, RC § 3767.06.

Tax shall be imposed against owner of property, RC § 3767.09.

Research Aids

Abatement of nuisance during prosecution:

O-Jur3d: Crim L §§ 4198, 4199

Am-Jur2d: Pros Atty §§ 23-27

Law Review

Qui tam actions and the Rivers and Harbors Act. Note. 23 CaseWResLRev 173 (1971).

Qui tam actions for citizen enforcement of the Refuse Act of 1899 against polluters. J. S. Ott. 21:1 ClevStLRev 182 (1972).

CASE NOTES AND OAG

I. (1993) Since RC § 3767.06 assesses additional financial penalties for past criminal conduct, it no longer describes actions in equity. Thus, a right to a jury trial attaches in an action to abate a nuisance: State ex rel. Miller v. Anthony, No. 93AP-492 (10th Dist.), 1993 Ohio App. LEXIS 4391.

§ 3767.13 Prohibitions.

(A) No person shall erect, continue, use, or maintain a building, structure, or place for the exercise of a trade, employment, or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public.

(B) No person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

(C) No person shall unlawfully obstruct or impede the passage of a navigable river, harbor, or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream, or water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others.

(D) Persons who are engaged in agriculture-related activities, as "agriculture" is defined in section 519.01 of the Revised Code, and who are conducting those activities outside a municipal corporation, in accordance with generally accepted agricultural practices, and in such a manner so as not to have a substantial, adverse effect on the public health, safety, or welfare are exempt from divisions (A) and (B) of this section, from any similar ordinances, resolutions, rules, or other enactments of a state agency or political subdivision, and from any ordinances, resolutions, rules, or other enactments of a state agency or political subdivision that prohibit excessive noise.

HISTORY: RS § 6921; S&C 441, 878, 880; 30 v 22, §§ 1, 2; 32 v 38; 54 v 130, §§ 1, 2; 72 v 112; GC § 12646; Bureau of Code Revision, 10-1-53; 139 v S 78. Eff 6-29-82.

Cross-References to Related Sections

Penalty, RC § 3767.99.

Contempt proceedings, RC § 3767.24.

Disconnection and reconnection or relocation of improper inflows into sewers, RC § 6117.01.2.

Inspector of nuisances, RC § 3767.27.

Judgment for fine and costs, RC § 3767.26.

Powers and duties of inspector, RC § 3767.28.

Prosecution of corporations for nuisances; abatement, RC § 3767.23.

Venue, RC § 3767.25.

Comparative Legislation

Public nuisances:

CA—Penal Code § 370 et seq

FL—Stat Ann §§ 386.01 et seq, 823.01 et seq

IL—Comp Stat Ann ch 740 § 55/221

IN—Code § 34-1-52-1 et seq

KY—Rev Stat Ann § 211.210

MI—Comp Laws Ann § 600.3801 et seq

NY—Pub Health Law § 1300 et seq

PA—CSA tit 18 § 6504

Forms

Nuisance. 3 OJI § 345.01 et seq

Research Aids

Pollution as nuisance:

O-Jur3d: Crim L §§ 4190, 4191; Envirn Pro §§ 80, 187, 196, 201, 203; Water §§ 65, 155

Am-Jur2d: Ani § 61 et seq; Nuis §§ 210, 211; Poll Cont §§ 462 et seq, 468 et seq; Waters § 96 et seq

C.J.S.: Nuis §§ 14, 18, 20 et seq; Waters §§ 49, 58 et seq

West Key No. Reference

Nuis 3, 61, 62

Law Review

The common law of public nuisance in state environmental litigation. Kenneth S. Buger. 4 EnvironmentalAff 367 (1975).

Economics and the environment: a study of private nuisance. A. I. Ogus and G. M. Richardson. 36 CambridgeLJ 284 (1977).

Environmental law—the nuances of nuisance in a private action to control air pollution. Note. Michael E. Winck. 80 WVLR 48 (1977-78).

Private actions for public nuisance: the standing problem. Mark A. Rothstein. 76 WVirLRev 453 (1976).